IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9393 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GOVINDBHAI KARAMSHIBHAI KALOTRA - Petitioner(s)

Versus

TALUKA DEVELOPMENT OFFICER - Respondent(s)

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Appearance :

MRS DT SHAH for Petitioner No(s).: 1.

MR DG CHAUHAN for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 22/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award of the Labour Court, Surendranagar in Reference [L.C.S.] No. 371 of 1990, whereby the said Reference was rejected.

2. The short facts of the case are that the petitioner was working as a daily wager with the respondent. It is the case of the petitioner that he has been working as such since the year 1988. The respondent without following any procedure under the Industrial Disputes Act, 1947 terminated the services of the petitioner w.e.f. 29th March, 1990. Being aggrieved by the said order, the petitioner raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the materials produced before it passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the material produced on record, it transpires that the Labour Court while rejecting the reference has arrived at a conclusion that the petitioner was working on daily wage basis and that he has not worked for 240 days in a year. However in view of the principle laid down by the Full Bench of this Court in the case of **H.K. Makwana v. State of Gujarat reported in 1994 (2) G.L.R. p. 1002**, the relief work is not a “business” or “trade” and, therefore, the persons who are appointed on daily wage basis for scarcity work cannot be

reinstated in service. Thus, I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court and find no reason to interfere in this petition.

4. In the result, the petition is dismissed. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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